

HOUSE BILL NO. 124

INTRODUCED BY R. MEHLHOFF

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR AN ELECTION BETWEEN THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT AND OTHER ADJUSTMENTS IN RETIREMENT BENEFITS FOR CERTAIN MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; AMENDING SECTIONS 19-2-908 AND 19-13-1007, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Extended election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2009; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2010,

1 forward.

2 (4) The board shall adopt rules to administer the provisions of this section.

3 (5) The decision of a member who elected to participate under 19-13-1010 or 19-13-1011 remains valid.

4 The decision of a member who elected not to participate under 19-13-1010 or 19-13-1011 may be reversed under
5 this section.

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7 **Section 2.** Section 19-2-908, MCA, is amended to read:

8 **"19-2-908. Time of commencement of benefit -- rulemaking.** (1) (a) The board shall grant a benefit
9 to any active or inactive member who is vested, or the member's statutory or designated beneficiary, who has
10 fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board.
11 However, the board may, on its own accord and without a written application, begin benefit payments to a
12 member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

13 (b) A member may apply for retirement benefits before termination from employment, but
14 commencement of the benefits must be as provided in this section.

15 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first
16 day of the month following the eligible member's last day of membership service or, if requested by the inactive
17 member in writing, on the first day of a later month following filing of the written application.

18 (b) If an elected official's term of office expires before the 15th day of the month, the official may elect
19 that service retirement benefits from a defined benefit plan commence on the first day of the month following the
20 official's last full month in office. An official electing this option shall file a written application with the board. An
21 official electing this option may not earn membership service, service credit, or compensation for purposes of
22 calculating highest average compensation or final average compensation, as defined under the provisions of the
23 appropriate retirement system, in the partial month ending the official's term, and compensation earned in that
24 partial month is not subject to employer or employee contributions.

25 (3) (a) Subject to the provisions of subsection (3)(b), the disability retirement benefit payable to a
26 member must commence on the day following the member's termination from employment.

27 (b) The guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710,
28 19-6-711, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, ~~and~~ 19-13-1011, and [section
29 1] may not be paid retroactively. The guaranteed annual benefit adjustment begins on January 1 of the year after
30 the member has received an amount equal to or greater than 12 months of disability benefit payments.

(4) Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(5) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(6) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 3. Section 19-13-1007, MCA, is amended to read:

"19-13-1007. Minimum benefit adjustment. (1) The following applies to a member with 10 or more years of membership service who has not elected to be covered under 19-13-1010, 19-13-1011, or [section 1]:

(a) For the member or the member's surviving spouse or dependent children, the service retirement benefit provided in 19-13-704, the disability retirement benefit provided in 19-13-803, and the survivorship benefit provided in 19-13-902 may not be less than one-half the monthly compensation paid to a newly confirmed, active firefighter of the employer that last employed the member as a firefighter, as provided each year in the budget of that employer.

(b) If after a member retires, the employer that last employed the member no longer employs a full-paid firefighter, the member's or survivor's benefit under subsection (1)(a) must be adjusted on the basis of the average monthly compensation paid to all newly confirmed full-paid firefighters, as provided each year in the budgets of those employers that participate in the retirement system and employ a full-paid firefighter.

(2) If the employment of a vested member hired before July 1, 1981, who has not elected to be covered under 19-13-1010 is involuntarily discontinued because of the termination of employment of all full-paid firefighters of the employer that employed the member, the member's service retirement benefit provided in 19-13-704 and the member's spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may not be less than:

(a) if the member has earned 20 years or more of membership service, one-half the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the budgets of those employers that participate in the retirement system and employ a full-paid firefighter; or

(b) if the member has earned more than 5 but less than 20 years of membership service, 2.5% of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the budgets of those employers that participate in the retirement system and employ a full-paid firefighter, for each

1 year of the member's service."

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3 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 19, chapter 13, part 10, and the provisions of Title 19, chapter 13, part 10, apply to [section
5 1].

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7 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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